IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.E.A. No. 24 of 2007

DATE OF DECISION: 14.9.2007

Commissioner of Central Excise, Ludhiana

…Appellant

Versus

M/s Sham Udyog Ltd. and another

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sanjeev Kaushik, Advocate,
for the appellant-revenue.

JUDGMENT

M.M. KUMAR, J.

This appeal filed by the appellant-revenue under Section 35G of the Central Excise Act, 1944 (for brevity, 'the Act'), challenges order dated 15.6.2006, passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi (for brevity, 'the Tribunal). It has been claimed that the following question of law would arise for determination of this Court:-

> "Whether equal penalty under Section 11AC is not imposable on the assessee merely on the ground that the duty has been deposited before the issue of show cause notice?"

After hearing learned counsel for the appellant and perusing the record we find that the matter is not *res integra*,

inasmuch as, a Division Bench of this Court of which one of us (M.M. Kumar, J.) is a member, have already decided similar appeals against the revenue and in favour of the assessee in the cases of **Commissioner of Central Excise, Ludhiana v. M/s Omkar Steel Tubes (P) Ltd. (C.E.A. No. 5 of 2007, decided on 28.8.2007); Commissioner of Central Excise, Ludhiana v. M/s Crop Chemical India Ltd. and another (C.E.A. No. 6 of 2007, decided on 31.8.2007); Commissioner of Central Excise, Delhi-III v. M/s Sun Vacuum Former Pvt. Ltd. (C.E.A. No. 56 of 2007, decided on 7.9.2007);** and **Commissioner of Central Excise, Chandigarh v. M/s Diamond Steel Rolling Mills and another (C.E.A. No. 25 of 2007, decided on 7.9.2007).**

In view of the above, instant appeal fails and the same is dismissed in terms of the aforementioned judgments.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

September 14, 2007
Pkapoor